

806 KAR 9:200. Volume of insurance agent exchange of business.

RELATES TO: KRS 304.9-030, 304.9-080, 304.9-085, 304.9-230, 304.9-410, 304.10, 304.13-011(8), 304.46

STATUTORY AUTHORITY: KRS 304.2-110, 304.9-410(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes that the Executive Director of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as defined in KRS 304.1-010. KRS 304.9-410(3) requires the Executive Director of Insurance to promulgate an administrative regulation establishing the amount or volume of business that constitutes the occasional placement of business with insurers the agent is not appointed to represent, as permitted by KRS 304.9-080(5) and 304.9-410(1)(a) and (2). This administrative regulation defines what constitutes occasional placement of business with insurers an agent is not appointed to represent.

Section 1. Definitions. (1) "Executive director" means the Executive Director of the Office of Insurance.

(2) "Total premium" means all payments received from insureds or prospective insureds as consideration for insurance, including all taxes and surcharges imposed by Kentucky law.

Section 2. Volume of Insurance Agent Exchange of Business. (1) An agent holding a license with a line of authority for property, casualty, surety, or with a limited line of authority as defined in KRS 304.9-230 shall not place insurance with a premium of more than twenty (20) percent of the agent's total premium for the preceding calendar year with insurers for which the agent holds no appointment. Insurance placed by an agent through a residual market mechanism as defined in KRS 304.13-011(8), with a surplus lines insurer pursuant to KRS Chapter 304.10, through a managing general agent as defined in KRS 304.9-085, or through a voluntary risk sharing or market assistance plan pursuant to KRS Chapter 304.46 shall not be considered in determining whether the agent has violated this subsection.

(2) An agent holding a license with a line of authority for life or health or with a line of authority for limited line credit shall not place insurance with a premium of more than twenty (20) percent of the agent's total premium for the preceding calendar year with insurers for which the agent holds no appointment.

Section 3. Business Entity Licensees. For agents designated to act under a business entity agent license, the percentage limitations of Section 2 of this administrative regulation shall be measured by the total premium received by the business entity. Persons designated to act under a business entity agent license are subject to a single overall limit and shall not use their separate licenses to increase the volume of permissible exchange of business.

Section 4. Responsibilities of Insurer; Validity of Insurance Issued in Violation of this Administrative Regulation. (1) An insurer may assume that agents not appointed by the insurer and submitting applications to the insurer have not exceeded the limitations of Section 2 of this administrative regulation. However, an insurer which knows or has reason to know that an agent is in violation of Section 2 of this administrative regulation shall not issue an insurance policy based on an application submitted by this agent.

(2) An insurance policy issued in violation of this administrative regulation shall be valid and enforceable. (13 Ky.R. 2171; Am. 14 Ky.R. 212; eff. 8-5-87; 27 Ky.R. 1337; 1804; eff. 1-15-2001; 32 Ky.R. 316; 880; eff. 12-2-05.)